

## **REMARKS/ARGUMENTS**

### ***Claim Amendments***

The independent claims have all been amended to clarify that the “connection oriented signalling channel” used to transmit the SIR is distinct from the “bearer” used to subsequently transmit the push data.

### ***Obviousness Rejections***

In paragraph 4 of the detailed action, the Examiner rejects claims 1, 3-4, 6-8, 10-12, 14-20, 23, 25-31 under 35 USC 103(a) as being unpatentable over a combination of references referred to by the Examiner as PUSHARCH, Lewontin, OTAHTTP, and WAPU. In the Office Action, the Examiner argues that the Applicant has argued limitations that are not claimed. This appears to pertain to Applicant’s argument that the connection-oriented signalling channel is a separate channel from the “bearer” used to transmit the push data. Applicant has amended the claims to make it clear that these two channels are in fact separate and distinct.

On page 2 of the detailed action, the Examiner asks:

‘is a “need” an initiation request?’

A “need” is to be given its normal meaning. *See e.g.*, the following definition from “answers.com” (attached as Evidence Appendix, Exhibit A):

Need: A condition or situation in which something is required or wanted: *crops in need of water;*

Here, the condition or situation is that information is required or wanted to be pushed from a push proxy gateway to a mobile station. As discussed in the telephone interview conducted May 12, 2009, the manner in which the push proxy gateway comes to the situation in which it has data to send to the mobile station is not the subject of this application and therefore details of this are not included in the claims. It is respectfully submitted that this is absolutely clear, and no amendment to the claim is necessary. The “need” language is used to make it clear that the

connection-oriented channel is not established to send the push information *per se*. Rather, the connection-oriented channel is established in response to a need to send the information. The remainder of the claim makes it clear that the channel thus established is not used to transmit the push information, but rather a bearer is established for this purpose. The connection-oriented channel thus established is used to transmit the SIR.

On page 3 of the detailed action, the Examiner asks:

“Is there a difference in transmitting the SIR and data? It is not clear from reading the specification or the arguments in the amendment whether the SIR and data are transmitted via the same connection-oriented channel.”

As discussed above, the claims have been amended to indicate clearly that the channel used to transmit the SIR and the channel used to transmit the data are different channels.

Furthermore, with respect, relying solely on the claim language, the SIR is sent on the connection-oriented channel. The data is then sent on a bearer established in response to the connection-oriented channel. Accordingly, the bearer that is thus established DID NOT EXIST when the SIR was sent on the connection-oriented channel, otherwise the SIR would not have needed to be sent, and the bearer would not have needed to be established. Given that the bearer DID NOT EXIST, when the SIR was sent, it is clear from the claim that the bearer used for data transmission and the connection-oriented channel used for SIR transmission are different. Claim 1 has further been amended to restrict the connection-oriented signalling channel to being a USSD channel.

The Examiner argues that “It is obvious from the combination of PUSHARCH, OTAHTTP and Lewontin teaches the establishment of the connection-oriented channel for the purpose of sending the SIR,” emphasis added. Applicant respectfully disagrees, and has provided detailed arguments against this position.

It is noted that Lewontin operates as follows:

send SIR via connectionless push;

in response to the SIR, set up connection-oriented channel to transmit the push data and sending the data using the connection-oriented channel.

Importantly, the connection-oriented channel is set up by the mobile station in response to the SIR. In Applicant's claim 1, a connection-oriented signalling channel is established by the push proxy server in response to a need to transmit push information, but not for the purpose of transmission of the push information but rather in order to send the SIR. This is clear, as the mobile station establishes a bearer in response to the SIR for the purpose of transmission of the push information. In Lewontin, the connection-oriented channel is for transmission of the push information.

Lewontin clearly does not disclose establishing a connection-oriented channel for the purpose of sending the SIR. Furthermore, the channel is a data channel, not a signalling channel.

The Examiner seems to be taking the position that Applicant's claim 1 does not recite this either. Applicant respectfully disagrees; the connection-oriented signalling channel is setup in response to a need to push information; the channel thus established is used to transmit the SIR; another means (the bearer) is used to transmit the information per se. Given that the connection-oriented channel is not used to transmit the data (the bearer is), it is clear that the purpose of the connection-oriented signalling channel is for transmission of the SIR. Note also that it is a "signalling channel" that is established; a signalling channel is for signalling, not data.

The Examiner has not contested Applicant's summary of Lewontin, OTAHTTP, or PUSHARCH, each of which operates as described below:

Lewontin:

send SIR via connectionless push;

in response to the SIR, set up connection-oriented channel to transmit the push data and sending the data using the connection-oriented channel. The connection-oriented channel of Lewontin is not a signalling channel; it is for data transmission.

OTAHTTP:

sending an SIR via connection oriented signalling channel if such a channel already exists;

sending data on connection-oriented channel

PUSHARCH

sends SIR via connectionless push;

activation of a bearer for subsequently pushed data.

The Examiner concedes PUSHARCH does not teach “in response to a need to push information from a push proxy gateway to a mobile station, establishing a connection-oriented signalling channel between the network and the mobile station. ... In the same field of endeavour, Lewontin disclose in response to a need to push information from a push proxy gateway to a mobile station, establishing a connection-oriented signalling channel between the network and the mobile station (Lewontin: [0040] describes establishing the connection oriented push from PG in response to an initiation signal, i.e. a need, generated from the push initiator 212 of Fig. 2). In PUSHARCH, SIR, used in connection oriented push, instructs client to establish a session with the PG. It would have been obvious for one skilled in the art at the time of invention to incorporate the teachings of Lewontin with PUSHARCH by establishing the connection-oriented signalling channel, as taught by Lewontin, because such a channel would provide time efficient transmission for SIR and further connection-oriented push messages.”

It is respectfully submitted that this logic is flawed. The connection-oriented channel established in Lewontin is not a signalling channel; it is a channel for transmission of the data. Thus, combining Lewontin with PUSHARCH, we still have the establishment of a connection-oriented channel for transmission of data. They are teaching the same thing.

The Examiner has also conceded that the document OTAHTTP may not provide an enabling disclosure for what is being relied upon in that reference. Applicant has no way of verifying whether or not the author ever implemented the disclosed subject matter.

Reference WAPU provides “the necessary parameters and configurations and additional functionality that is needed in order to use GSM phase 2 USSD as a bearer of the WAP protocols”. See page 15 under heading 6.1. The document does not appear contain any reference to the transmission of an SIR nor to the transmission of push data nor the use of distinct channels for the SIR and the push data. Referring to section 6.2:

The USSD dialogue provides a two-way-alternate interactive service to the user. This means that only the entity (mobile phone or network node) with the turn may send and its correspondent is permitted only to receive. To be able to use the USSD dialogue as a full duplex service a special protocol has to be specified that deals with the management of the dialogue. The protocol has to hide the two-way-alternate characteristics of the USSD dialogue to the upper layer, and allow the upper layer to use USSD as a full duplex service onto which datagrams can be sent and received.

In other words, a protocol is designed to make the USSD channel look like a full duplex channel. This obviously is a completely different concept from using a USSD channel to simply send an SIR, and then to use a separate bearer for the subsequent transmission of data from a push proxy server.

On this basis, it is respectfully submitted that the combination of the references cited does not teach many of the claim limitations, namely the establishment of a connection-oriented signalling channel for transmitting an SIR and the use of a USSD for sending the SIR as the connection-oriented signalling channel. The Examiner is respectfully requested to withdraw the rejection of claim 1 under 35 USC 103(a).

Similar argument apply to the remaining claims rejected in paragraph 4 of the detailed action. The Examiner is also respectfully requested to withdraw these rejections.

The remaining rejections under 35 USC 103(a) set out in paragraphs 21, 23, 26 and 28 all rely on the problematic combination of PUSHARCH, Lewontin and OTAHTTP as discussed above and Applicant respectfully submits that these claims should be patentable for the same reasons. Applicant reserves the right to make further arguments regarding these dependent claims.

Favourable consideration and allowance is respectfully requested.

In view of the foregoing, early favorable consideration of this application is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David C. Jenkins', written over a horizontal line.

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# Answers.com

## need

**Did you mean:** television (mechanical device (in communication, entertainment, TV), The Need (Rock Band, '90s, 2000s), NEED (abbreviation), Need (family name), Stargate SG-1 (season 2) More...

Dictionary: need (nēd) 

*n.*

1. A condition or situation in which something is required or wanted: *crops in need of water; a need for affection.*
2. Something required or wanted; a requisite: *"Those of us who led the charge for these women's issues ... shared a common vision in the needs of women"* (Olympia Snowe).
3. Necessity; obligation: *There is no need for you to go.*
4. A condition of poverty or misfortune: *The family is in dire need.*

*v.*, need·ed, need·ing, needs.

*v.aux.*

To be under the necessity of or the obligation to: *They need not come.*

*v.tr.*

To have need of; require: *The family needs money.* See synonyms at lack.

*v.intr.*

1. To be in need or want.
2. To be necessary.

[Middle English nede, from Old English nēod, nēd, distress, necessity.]

**USAGE NOTE** Depending on the sense, the verb *need* behaves sometimes like an auxiliary verb (such as *can* or *may*) and sometimes like a main verb (such as *want* or *try*). When used as a main verb, *need* agrees with its subject, takes *to* before the verb following it, and combines with *do* in questions, negations, and certain other constructions: *He needs to go. Does he need to go so soon? He doesn't need to go.* When used as an auxiliary verb, *need* does not agree with its subject, does not take *to* before the verb following it, and does not combine with *do*: *He needn't go. Need he go so soon?* The auxiliary forms of *need* are used primarily in present-tense questions, negations, and conditional clauses. Unlike *can* and *may*, auxiliary *need* has no form for the past tense like *could* and *might*.

**REGIONAL NOTE** When *need* is used as the main verb, it can be followed by a present participle, as in *The car needs washing*, or by *to be* plus a past participle, as in *The car needs to be washed*. However, in some areas of the United States, especially western Pennsylvania and eastern Ohio, many speakers omit *to be* and use just the past participle form, as in *The car needs washed*. This use of *need* with past participles is slightly more common in the British Isles, being particularly prevalent in Scotland.

Thesaurus: need

*noun*

1. A condition in which something necessary or desirable is required or wanted: exigence,

Evidence Appendix: Exhibit A